



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2012-0381; FRL-9747-9]

**Approval and Promulgation of Air Quality Implementation Plans;
Delaware; Requirements for Prevention of Significant Deterioration and Nonattainment
New Source Review; Fine Particulate Matter (PM_{2.5}); Correction**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: This document corrects an omission in the final rule document published on October 2, 2012, announcing EPA's final approval of several revisions to the Delaware State Implementation Plan (SIP). The revisions pertain to preconstruction requirements under the Prevention of Significant Deterioration (PSD) and nonattainment New Source Review (NSR) programs. The correction of this omission does not change EPA's final action to approve these regulations or their effectiveness.

DATES: This correcting amendment is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and is applicable beginning November 1, 2012.

FOR FURTHER INFORMATION CONTACT: Gerallyn Duke, (215) 814-2084 or by e-mail at duke.gerallyn@epa.gov.

SUPPLEMENTARY INFORMATION: On October 2, 2012 (77 FR 60053), EPA published a final rulemaking action announcing its approval of revisions to the Delaware SIP pertaining to preconstruction requirements for fine particulate matter (PM_{2.5}) under the PSD and nonattainment NSR programs. In addition, that action approved select portions of several

Delaware SIP submittals intended to address the “infrastructure” requirements of CAA section 110(a)(2). Our approval of those infrastructure elements was discussed in the preamble to the final rulemaking action. However, the document inadvertently omitted necessary revisions to table (e) of section 52.420 which incorporate the specific revisions which are the subject of the final rulemaking action. This action corrects that oversight.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment because it merely corrects an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

Statutory and Executive Order Reviews:

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and is therefore not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 Fed. Reg. 28355 (May 22, 2001)). Because the agency has made a “good cause” finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 et seq), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the

National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq). The Congressional Review Act (5 U.S.C. 801 et seq.), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of November 1, 2012. EPA `

will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. This action to add the revision to paragraph 52.420(e), is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Reporting and recordkeeping requirements

Accordingly, in 40 CFR part 52, the following correcting amendments are made:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

2. In § 52.420, the table in paragraph (e) is amended by revising the entries for section 110(a)(2) Infrastructure Requirements for the 1997 8-Hour Ozone NAAQS, section 110(a)(2) Infrastructure Requirements for the 1997 PM_{2.5} NAAQS, section 110(a)(2) Infrastructure Requirements for the 2006 PM_{2.5} NAAQS, section 110(a)(2) Infrastructure Requirements for the 2008 Lead NAAQS to read as follows:

§ 52.420 Identification of plan.

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(e) * * *

Name of non-regulatory SIP revision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Additional explanation
* * * * *				
Section 110(a)(2) Infrastructure Requirements for the 1997 8-Hour Ozone NAAQS	Statewide	12/13/07 9/19/08 9/16/09	8/4/11, 76 FR 47068	This action address the following CAA elements: 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M) or portions thereof.
	Statewide	12/13/07 9/19/08 9/16/09 4/1/10	<u>[Insert Federal Register publication date]</u> <u>[Insert page number where the document begins]</u>	This action address the following CAA elements: 110(a)(2)(D)(i)(II) or portions thereof.
Section 110(a)(2) Infrastructure Requirements for the 1997 PM _{2.5} NAAQS	Statewide	12/13/07 3/12/08 9/16/09 3/10/10	8/4/11, 76 FR 47068	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(ii) (E), (F), (G), (H), (J), (K), (L), and (M) or portions thereof.
	Statewide	12/13/07 3/12/08 9/16/09 3/14/12	<u>[Insert Federal Register publication date]</u> <u>[Insert page number where the document begins]</u>	This action address the following CAA elements: 110(a)(2)(D)(i)(II) or portions thereof.
Section 110(a)(2) Infrastructure Requirements for the 2006 PM _{2.5} NAAQS	Statewide	9/16/09 3/10/10	8/4/11, 76 FR 47068	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M), or portions thereof.
	Statewide	9/16/09 3/14/12	<u>[Insert Federal Register publication date]</u> <u>[Insert page number where the document begins]</u>	This action address the following CAA elements: 110(a)(2)(D)(i)(II) or portions thereof.
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Name of non-regulatory SIP revision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Additional explanation
Section 110(a)(2) Infrastructure Requirements for the 2008 Lead NAAQS	Statewide	10/17/11	9/10/12, 77 FR 55420	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M) or portions thereof.
	Statewide	10/17/11 3/14/12	<u>[Insert Federal Register publication date]</u> <u>[Insert page number where the document begins]</u>	This action address the following CAA elements: 110(a)(2)(C), (D)(i)(II), and (J) or portions thereof.

Dated: October 19, 2012

W. C. Early, Acting
Regional Administrator,
EPA Region III.

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11/05/2012 at 8:45 am; Publication Date: 11/06/2012]